



Setting ^{THE} record straight

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Lawsuit abuse stunts economic growth, job creation

One company's experience exemplifies need for commonsense reform

Irex Corporation is a specialty contracting company based in Lancaster that employs more than 2,000 men and women working out of 35 office locations throughout the United States and Canada.

Irex's original operating business was a company called ACandS, Inc. In 2002, ACandS was forced to file for bankruptcy as a result of 500,000 asbestos claims filed against it even though ACandS never designed or manufactured a single asbestos-containing product. The company merely installed insulation products, some of which contained portions of asbestos, which were purchased from reputable manufacturers.

Nevertheless, ACandS was so overrun by lawsuits that it literally could not get to them all. Most were brought in pro-plaintiff jurisdictions like Philadelphia that had little or nothing to do with where the parties resided or where the alleged injuries took place. When ACandS was able to defend itself, it was generally successful. But joint and several liability, unlimited and multiple punitive damages, and various rules that favored plaintiffs over defendants took their toll. One case, brought in a jurisdiction where ACandS had never worked and by individuals who were not sick, led to a jury verdict of \$84 million against ACandS. The verdict was substantially more than ACandS had earned over its entire 45 years of existence!

High legal costs paid by Pennsylvania employers stunt the Commonwealth's economic growth and job creation. Additionally, the costs of unnecessary litigation and unbalanced jury awards result in higher costs to consumers for products and services.

The Pennsylvania Chamber of Business and Industry, along with a host of statewide business, health-care and civic organizations, chambers of commerce, employers and pro-business lawmakers, has lent their backing to a package of legal reforms that will improve the system for all Pennsylvanians by restoring common sense, personal responsibility and fairness to a system lacking all three.

Some of these reforms include:

- **Repeal of joint and several liability.** Pennsylvania's allowance of recovery under the doctrine of joint and several liability holds defendants found even 1 percent liable in a lawsuit responsible for the entire verdict. This unfair doctrine actually encourages more litigation as plaintiffs go in search of deep pockets (ability to pay) when filing their lawsuits. Often, these deep pockets end up paying the entire award even if they were only marginally responsible. Reforming this doctrine would ensure that Pennsylvania adheres to the basic premise that liability equals fault, and a defendant should only pay their fair share.
- **Protection for innocent sellers.** Sellers, who are not manufacturers, are frequently sued even though all they did was sell a product later claimed to have been defective. This is unfair, and the costs of litigation are passed on to all of us in the form of higher prices. The measure would ensure that retailers who do not alter a product would not be liable if a product is defective.
- **Statute of repose in product liability actions.** Too many product liability suits are brought many years after a product was manufactured and worked without incident. This leads to difficulties in defense and higher insurance costs for all. This reform measure would establish a 15-year time limit (statute of repose) for most products. Specifically exempted would be actions alleging a physical illness, the evidence of which did not appear in less than 15 years after the first exposure to the product (i.e. tobacco or asbestos).

The fairness and predictability of a state's legal system is one of the many factors that influence businesses' hiring, expansion and location decisions. Commonsense legal reform will go a long way toward creating a business climate that supports economic growth and job creation, not one that unnecessarily jeopardizes employers in the Commonwealth.

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